

AMENDED IN SENATE MARCH 21, 2019

AMENDED IN SENATE MARCH 4, 2019

AMENDED IN SENATE FEBRUARY 25, 2019

AMENDED IN SENATE FEBRUARY 19, 2019

## SENATE BILL

**No. 67**

### **Introduced by Senator McGuire**

(Principal coauthor: Assembly Member Wood)

January 8, 2019

An act to amend Section 26050.2 of, and to add *and repeal* Section 26050.3 to, of the Business and Professions Code, relating to cannabis, and declaring the urgency thereof, to take effect immediately.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 67, as amended, McGuire. Cannabis: temporary and provisional licenses.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA requires an applicant for any type of license under the act to provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate. MAUCRSA establishes the Cannabis Control Appeals Panel and authorizes any person aggrieved by specified decisions of a licensing

~~authority related to disciplining any license to appeal the licensing authority's written decision to the panel.~~

MAUCRSA, until January 1, 2019, authorized a state licensing authority *authority, which is defined to include the Department of Food and Agriculture*, to issue a temporary license if an applicant submitted, among other things, a copy of a specified authorization issued by a local jurisdiction. MAUCRSA required the temporary license to be valid for a period of 120 days and authorized the temporary license to be extended for an additional 90-day period at the discretion of the licensing authority. MAUCRSA did not entitle an applicant or licensee to a hearing or an appeal after the refusal by the licensing authority to issue or extend a temporary license. Existing law repealed these provisions on January 1, 2019.

MAUCRSA, until January 1, 2020, authorizes a licensing authority to issue a provisional license to an applicant that holds, or held, a temporary license for the same premises and the same commercial cannabis activity, if specified conditions are met. Existing law required the provisional license to be valid for 12 months and prohibits the provisional license from being renewed. ~~MAUCRSA does not entitle an applicant or licensee to a hearing or an appeal after the refusal by the licensing authority to issue a provisional license or the revocation or suspension by the licensing authority of a provisional license.~~

~~This bill would~~ *would, until September 15, 2019, revalidate an expired temporary license issued by the Department of Food and Agriculture, if the licensee submitted an application for an annual state license and application fees for the same premises and commercial cannabis activity for which the temporary license was issued, before the licensee's temporary license expiration date, and would require the extended temporary license to expire on December 31, 2019, unless otherwise revoked.* ~~date.~~ The bill would revoke the temporary license's validity after the ~~licensing authority~~ *department* issues an annual license or provisional license for the same premises and the same commercial cannabis activity for which the temporary license was issued, or 30 days after the ~~licensing authority~~ *department* denies or disqualifies, or the licensee abandons, the licensee's application for an annual ~~license~~ *license or the department notifies the temporary licensee that the licensee is eligible for an annual or provisional license.* The bill would not entitle the applicant or licensee to a hearing or an appeal of the licensing authority's refusal to extend a license or the revocation or suspension by the ~~licensing authority~~ *department* of a temporary license.

The bill would specify, among other things, that a temporary license does not obligate the ~~licensing authority~~ *department* to issue that licensee an annual or provisional license. ~~The bill would require specified licensing authorities to submit a report related to delays in issuing licenses, as provided.~~

~~This bill would additionally authorize a licensing authority to issue a provisional license to an applicant that holds an extended temporary license for the same premises and the same commercial cannabis activity. The bill would authorize a licensing authority to issue, after the licensing authority has granted, disqualified, or denied all annual license applications submitted by temporary licensees with an extended temporary license, provisional licenses to applicants without temporary licenses if specified conditions are met. By requiring additional applications to be signed under penalty of perjury, the bill would expand the scope of the crime perjury, and would thereby impose a state-mandated local program. The bill would extend the authorization of a licensing authority to issue a provisional license to July 1, 2020.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure, authorizes the Legislature to amend the act to further the purposes and intent of the act with a  $\frac{2}{3}$  vote of the membership of both houses of the Legislature.

This bill would declare that its provisions further specified purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~*no*.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. ~~Section 26050.2 of the Business and Professions~~
- 2 ~~Code is amended to read:~~

1     ~~26050.2. (a) A licensing authority may, in its sole discretion,~~  
2 ~~issue a provisional license to an applicant if the following~~  
3 ~~conditions are met:~~

4     ~~(1) The applicant holds or held a temporary license for the same~~  
5 ~~premises and the same commercial cannabis activity for which the~~  
6 ~~license may be issued pursuant to this section.~~

7     ~~(2) The applicant has submitted a license application to the~~  
8 ~~licensing authority, including evidence that compliance with the~~  
9 ~~California Environmental Quality Act (Division 13 (commencing~~  
10 ~~with Section 21000) of the Public Resources Code) is underway.~~

11     ~~(b) Notwithstanding subdivision (a), a licensing authority may,~~  
12 ~~in its sole discretion, issue a provisional license for the same~~  
13 ~~premises and the same commercial cannabis activity to an applicant~~  
14 ~~who holds a temporary license extended pursuant to Section~~  
15 ~~26050.3.~~

16     ~~(c) After a licensing authority has granted, disqualified, or~~  
17 ~~denied all annual license applications submitted by temporary~~  
18 ~~licensees with extended temporary licenses pursuant to Section~~  
19 ~~26050.3, the licensing authority may, in its sole discretion and~~  
20 ~~notwithstanding subdivision (a), issue provisional licenses to~~  
21 ~~applicants without temporary licenses and who have submitted a~~  
22 ~~license application to the licensing authority, including evidence~~  
23 ~~that compliance with the California Environmental Quality Act~~  
24 ~~(Division 13 (commencing with Section 21000) of the Public~~  
25 ~~Resources Code) is underway.~~

26     ~~(d) A provisional license issued pursuant to this section shall~~  
27 ~~be valid for 12 months from the date issued and shall not be~~  
28 ~~renewed.~~

29     ~~(e) Except as specified in this section, the provisions of this~~  
30 ~~division shall apply to a provisional license in the same manner~~  
31 ~~as to an annual license, including, but not limited to, compliance~~  
32 ~~with the track and trace program identified in Chapter 6.5~~  
33 ~~(commencing with Section 26067).~~

34     ~~(f) Without limiting any other statutory exemption or categorical~~  
35 ~~exemption, Division 13 (commencing with Section 21000) of the~~  
36 ~~Public Resources Code does not apply to the issuance of a license~~  
37 ~~pursuant to this section by the licensing authority.~~

38     ~~(g) Refusal by the licensing authority to issue a license pursuant~~  
39 ~~to this section or revocation or suspension by the licensing authority~~  
40 ~~of a license issued pursuant to this section shall not entitle the~~

1 applicant or licensee to a hearing or an appeal of the decision.  
 2 Chapter 2 (commencing with Section 480) of Division 1.5 and  
 3 Chapter 4 (commencing with Section 26040) of this division shall  
 4 not apply to licenses issued pursuant to this section.

5 (h) This section shall remain in effect only until July 1, 2020,  
 6 and as of that date is repealed.

7 ~~SEC. 2.~~

8 *SECTION 1.* Section 26050.3 is added to the Business and  
 9 Professions Code, to read:

10 26050.3. (a) A temporary license issued by the Department  
 11 of Food and Agriculture pursuant to Section 26050.1, as enacted  
 12 by Chapter 27 of the Statutes of 2017 (Senate Bill 94), that has  
 13 expired shall be valid, regardless of its expiration date, *date when*  
 14 *issued*, if the licensee submitted an application for an annual  
 15 license, *license and application fees*, for the same premises and  
 16 the same commercial cannabis activity for which the temporary  
 17 license was issued, before the temporary license’s expiration date.

18 (b) A temporary license that is valid pursuant to subdivision (a)  
 19 shall cease to be valid, and may not be renewed, *valid* after the  
 20 licensing authority Department of Food and Agriculture issues an  
 21 annual or provisional license for the same premises and the same  
 22 commercial cannabis activity for which the temporary license was  
 23 issued.

24 (c) A temporary license that is valid pursuant to subdivision (a)  
 25 shall cease to be valid, and may not be renewed, *valid* 30 days  
 26 after any of the following occur:

27 (1) The licensing authority Department of Food and Agriculture  
 28 denies the licensee’s application for an annual license for the same  
 29 premises and the same commercial cannabis activity for which the  
 30 temporary license was issued. *extended pursuant to subdivision*  
 31 *(a).*

32 (2) The licensing authority Department of Food and Agriculture  
 33 disqualifies the licensee’s application for an annual license for the  
 34 same premises and the same commercial cannabis activity for  
 35 which the temporary license was issued. *extended pursuant to*  
 36 *subdivision (a).*

37 (3) The licensee abandons *or withdraws* the application for an  
 38 annual license for the same premises and the same commercial  
 39 cannabis activity for which the temporary license was issued.  
 40 *extended pursuant to subdivision (a).*

1 (4) *The Department of Food and Agriculture notifies the*  
 2 *temporary licensee that the licensee is eligible for an annual or*  
 3 *provisional license for which the temporary license was issued*  
 4 *pursuant to subdivision (a).*

5 (d) Denial, disqualification, revocation, or suspension by the  
 6 ~~licensing authority~~ *Department of Food and Agriculture* of a  
 7 temporary license extended pursuant to ~~this section~~ *subdivision*  
 8 *(a)* shall not entitle the applicant or licensee to a hearing or an  
 9 appeal of the decision. Chapter 2 (commencing with Section 480)  
 10 of Division ~~1.5~~ *1.5, Section 26031*, and Chapter 4 (commencing  
 11 with Section 26040) of this division shall not apply to temporary  
 12 licenses extended pursuant to ~~this section~~. *subdivision (a)*. A  
 13 temporary license shall not obligate the ~~licensing authority~~  
 14 *Department of Food and Agriculture* to issue an annual or  
 15 provisional license. A temporary license shall not create a vested  
 16 right in the holder to either an extension of the temporary license  
 17 or to the granting of a subsequent annual or provisional license.

18 ~~(e) On the first of each month, beginning 30 days after this~~  
 19 ~~section becomes operative, any licensing authority, who under its~~  
 20 ~~regulatory authority has a licensee holding a temporary license~~  
 21 ~~that is valid pursuant to subdivision (a), and who has not been~~  
 22 ~~issued an annual or provisional license, shall provide to the~~  
 23 ~~appropriate policy and fiscal committees of the Legislature the~~  
 24 ~~following information, in the aggregate and by city and county,~~  
 25 ~~and in accordance with Section 9795 of the Government Code:~~

26 (1) ~~The number of pending annual applications submitted by~~  
 27 ~~temporary and provisional licensees.~~

28 (2) ~~The number of temporary licensees who have not submitted~~  
 29 ~~an annual license application.~~

30 (3) ~~The number of temporary licenses that have expired.~~

31 (4) ~~Any other information that may be relevant to delays in~~  
 32 ~~processing annual applications by the licensing authority.~~

33 (f) ~~A temporary license extended pursuant to this section shall~~  
 34 ~~expire on December 31, 2019, unless the temporary license is~~  
 35 ~~otherwise invalid pursuant to subdivisions (b) and (c).~~

36 (e) *This section shall remain in effect only until September 15,*  
 37 *2019, and as of that date is repealed.*

38 ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
 39 ~~Section 6 of Article XIII B of the California Constitution because~~  
 40 ~~the only costs that may be incurred by a local agency or school~~

1 ~~district will be incurred because this act creates a new crime or~~  
2 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
3 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
4 ~~the Government Code, or changes the definition of a crime within~~  
5 ~~the meaning of Section 6 of Article XIII B of the California~~  
6 ~~Constitution.~~

7 ~~SEC. 4.~~

8 *SEC. 2.* The Legislature finds and declares that Section 2 I of  
9 this act adding Section 26050.3 to the Business and Professions  
10 Code furthers the purposes and intent of the Control, Regulate and  
11 Tax Adult Use of Marijuana Act.

12 ~~SEC. 5.~~

13 *SEC. 3.* This act is an urgency statute necessary for the  
14 immediate preservation of the public peace, health, or safety within  
15 the meaning of Article IV of the California Constitution and shall  
16 go into immediate effect. The facts constituting the necessity are:

17 The significant number of license applications pending with the  
18 licensing authorities or with local authorities before temporary  
19 licenses expire or before provisional licenses can be issued  
20 threatens to create a major disruption in the commercial cannabis  
21 marketplace.